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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,362	10/16/2001	Bernd Hessing	10191/1832	3262
26646	7590	07/11/2006	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			ROBERTS, BRIAN S	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/857,362	HESSING ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brian Roberts	2616	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

- Applicant's Amendment RCE filed on 05/26/2006 is acknowledged.
- Claims 1-17 were previously cancelled.
- Claims 37 have been amended.
- Claims 18-37 remain pending.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 18-26, 28-30, and 36-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Israni et al. (US 2002/0194170 A1)

- In reference to claim 18

In Figure 1, Israni et al. teaches a method of transmitting digitally coded traffic according to pre-established specifications or formats [0004], between a transmitter and receiver via a unidirectional channel that includes:

- Transmitting according to a subset of to pre-established specification or formats wherein the subset is the specification that governs a RDS-TMC system [0004-0005]
- Coding, transmitting, and decoding the digitally coded traffic information according to the subset

- In reference to claim 19, 20

In Figure 3, Israni et al. further teaches a method that includes:

- The specification governing a RDS-TMC system provides for data components 50(1)-50(6) (Information options) [Paragraph 0043]
- The data components 50(1)-50(6) provide for a traffic message 50 (information block) [Paragraph 0043]

- In reference to claim 21

In Figure 3, Israni et al. further teaches a method that includes:

- The traffic message 50 (Information block) provides for a data component 50(1)-50(6) (single-information option) [Paragraph 0043]
- The event component 50(1) includes data that describe a traffic problem 50(1)(1) (first extent-of-increase symbol) and data that describe a level of severity 50(1)(2) (second extent-of-increase symbol) [Paragraph 0044]

- In reference to claim 22

In Figure 3, Israni et al. further teaches a method that includes:

- The extent component 50(4) includes data that identify a length of traffic congestion queue with respect to the location 50(2) (item of length information) [Paragraph 0047]

- In reference to claim 23

In Figure 3, Israni et al. further teaches a method that includes:

- The advice component 50(6) provides a recommendation for a diversion of route [Paragraph 0023]

- In reference to claim 24

In Figure 3, Israni et al. further teaches a method that includes:

- The specification governing the RDS-TMC system provides for data components 50(1)-50(6) (Information portion) [Paragraph 0043]
- Data components 50(1)-50(6) provide for Location 50(2) information [Paragraph 0048]
- Location 50(2) information is in coded form according to Location Number 51(1), Location Table Number 51(2), Country Code 51(3), and a direction 51(4) [Paragraph 0048]

- In reference to claim 25, 30

In Figure 2, Israni et al. teaches a navigation system (110) for decoding the digitally coded traffic broadcast [Paragraph 0054] according to a subset of pre-established specifications or formats wherein the subset is the specification that governs a RDS-TMC system [0004-0005]

- In reference to claim 26

In Figure 2, Israni et al. teaches a navigation system (110) that includes:

- A traffic message receiver (125) for receiving the digitally coded traffic broadcast [Paragraph 0054]

- In reference to claim 28

In Figure 2, Israni et al. teaches a navigation system (110) that includes:

- A processor (112) that receives input from the receiver (125) of the digitally coded traffic broadcast according to a subset of pre-established specifications or formats wherein the subset is the specification that governs a RDS-TMC system [0004-0005]

- In reference to claim 29

In Figure 2, Israni et al. teaches a navigation system (110) that includes:

- A non-volatile memory (116) and RAM (120) for storing digitally coded traffic broadcast

- In reference to claim 36 and 37

In Figure 3, Israni et al. teaches an RDS-TMC system with a subset of digitally coded traffic messages. Traffic message (50) (TMC reports format) includes the following data components: an event description 50(1), a location 50(2), a direction 50(3), an extent 50(4), a duration 50(5) and advice 50(6). Israni et al. further teaches alternative embodiments of traffic messages (TMC reports format) that may also include components that provide other information 50(n). [0042-0043]

3. Claims 31-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Beyer et al. (US 6070123)

- In reference to claim 31

In Figure 1, Beyer et al. teaches a method and system with a bidirectional link, such as a digital GSM network, (column 1 lines 59-62) between a vehicle and a control unit (1) that includes:

- A Mobile Wireless System (3) digitally coding the route information (column 4 lines 47-53) according to a subset of the predetermined regulations wherein the subset is the regulations that govern a RDS-TMC system (column 1 lines 40-58)
- In reference to claim 32, 33

In Figure 1, Beyer et al. teaches a method and system with a bidirectional link, such as a digital GSM network, (column 1 lines 59-62) between a vehicle and a control unit (1) that includes:

- A Mobile Wireless System (3) that inherently includes a transmitter on the Central unit (1) side for transmitting the digitally coded route information to the terminal (4) in the vehicle (column 4 lines 47-53)
  - A Mobile Wireless System (3) that inherently includes a receiver on the Central unit (1) side for receiving the information entered to the central unit (1) from the vehicle (column 4 lines 47-53)
- In reference to claim 34

In Figure 1, Beyer et al. teaches a method and system with a bidirectional link, such as a digital GSM network, (column 1 lines 59-62) between a vehicle and a control unit (1) that includes:

- A Mobile Wireless System (3) with a TMC coder for coding the route information according to a subset of the predetermined regulations wherein the subset is the regulations that govern a RDS-TMC system (column 1 lines 40-58)

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:



Art Unit: 2616

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Israni et al. (US 2002/0194170 A1) in view of Beyer et al. (US 6070123)

- In reference to claim 27

Israni et al. teaches a system and method that covers substantially all limitations of the parent claim.

Israni et al. does not teach a receiver having a transmitting unit for transmitting a signal including at least one of an information inquiry.

In Figure 1, Beyer et al. teaches a method and system with a bidirectional link, such as a digital GSM network, (column 1 lines 59-62) between a vehicle and a central unit central unit (1) that includes:

- A Mobile Wireless System (3) that inherently includes a transmitter on the vehicle for transmitting a route request consisting of digitally coded route information to the central unit (1) so the central unit (1) can determine a route (column 4 lines 47-53)

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the system and method of Israni et al to include a transmitter as taught by Beyer et al. because the transmitter allows two-way communication between vehicles and control centers and allows the vehicles to request information from the control centers.

6. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beyer et al. (US 6070123) in view of Israni et al. (US 2002/0194170 A1)

- In reference to claim 35

Beyer et al. teaches a system and method that covers substantially all limitations of the parent claim.

Beyer et al. does explicitly teach a memory for storing a traffic message.

In Figure 2, Israni et al. teaches a navigation system (110) that includes:

- A non-volatile memory (116) and RAM (120) for storing information to be accessed later [0052]

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the system and method of Beyer et al. to include memory as taught by Israni et al. because the memory allows for information such as digitally coded traffic broadcast to be stored and accessed later.

### ***Response to Arguments***

7. Applicant's arguments filed 5/26/2006 have been fully considered but they are not persuasive.

- In the Remarks on pg. 5 of the Amendment, the Applicant contends that Israni et al. does not disclose, advocate, or even suggest, to deviate from the RDS-TMC standard, or that messages of the TMC system, without exception,

should now be coded, transmitted, and decoded according to a subset of the messages format provided in the standard, as required by claim 18.

- In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim 18. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Examiner recommends that the Applicant amend the claims to explicitly claim that the traffic messages do not make use of all options of the RDS-TMC standard and that the messages are coded according to a subset of possibilities provided in the standard.
- In the Remarks on pg. 5 of the Amendment, the Applicant contends that Israni et al. does not disclose atleast one of coded, transmitted, and decoded according to a subset of the predetermined regulations.
- The Examiner respectfully disagrees. In [0004], Israni et al. teaches traffic report broadcast systems where the traffic information broadcast conforms to one or **more** pre-established specifications or formats. The Examiner interprets the pre-established specifications or formats to be predefined regulations. In [0005], Israni et al. further defines an RDS-TMC system, which conforms to various publications including "Radio Data System, CENELEC END50067:1996, Specification of the Radio Data System". The Examiner

interprets "Radio Data System, CENELEC END50067:1996, Specification of the Radio Data System" to be a subset of the pre-established specifications or formats.

- In the Remarks on pg. 6 of the Amendment, the Applicant contends that Beyer does not disclose at least one of coded, transmitted, and decoded according to a subset of the predetermined regulations.
- The Examiner respectfully disagrees. In the discussion of prior art, Beyer states, "Various methods and arrangements for vehicle control and information systems have already become known" (predetermined regulations). Beyer states utilizing a Radio Data Systems (RDS) (arrangement) where coded traffic information is transmitted in accordance with the Traffic Message Channel (TMC) method. The Examiner interprets the Traffic Message Channel method to be a subset of "various methods and arrangements for vehicle control and information systems" (predetermined regulations).
- In the Remarks on pg. 7 of the Amendment, the Applicant contends, with respect to claim 27, that combining Israni et al. and Beyer et al. is mere hindsight reasoning without proper support, and fails to demonstrate a requisite motivation to combine the applied references.

- The Examiner respectfully disagrees. The combination of Israni et al. and Beyer et al. would allow for two-way communication between vehicles and control centers so the vehicles can request information from the control centers. (Beyer et al. column 2 lines 10-15; column 4 lines 47-53) The traffic information would be received on demand instead of having to receive the traffic messages on a predetermined regular basis as in Israni et al. [0039]
- In the Remarks on pg. 7 of the Amendment, the Applicant contends, with respect to claim 25, that combining Israni et al. and Beyer et al. is mere hindsight reasoning without proper support, and fails to demonstrate a requisite motivation to combine the applied references.
- The Examiner respectfully disagrees. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In the instant case, Beyer et al. teaches storing information in memory to be accessed later [0052]. The combination of Israni

et al. and Beyer et al. would allow for information such as digitally coded traffic broadcast to be stored and accessed later.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Roberts whose telephone number is (571) 272-3095. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BSR  
06/30/2006



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